REMARKS

Applicants hereby add new claims 31-41. Accordingly, claims 1-41 are pending in the present application.

Claim 19 stands rejected under 35 USC 101. Claims 1-30 stand rejected under 35 USC 102(b) for anticipation by U.S. Patent No. 5,870,765 to Bauer et al.

Applicants respectfully request reconsideration of the rejections.

Referring to the 101 rejections, Applicants respectfully submit that claim 19 recites statutory subject matter. Referring to page 2 of the Action, the Office states with reference to paragraph 0063 of the specification that the medium is not limited to tangible embodiments, instead being defined as including tangible embodiments and intangible embodiments. In response, the undersigned drafted and reviewed paragraph 0063 and failed to identify any definition therein of a medium including a data signal. To the contrary, paragraph 0063 clearly recites "[f]or example, processor-usable code may be provided via articles of manufacture, such as an appropriate processor-usable medium, _or alternately embodied within a data signal_ (e.g., carrier wave, data packets, etc.). Paragraph 0063 does not recite that the processor-usable medium explicitly defined in claim 19 includes a data signal but rather states that the data signal is an alternative embodiment to an article of manufacture such as a processor-usable medium recited in claim 19. Accordingly, Applicants have failed to uncover any definition of an article of manufacture such as a processor-usable medium of claim 19 including data signals and the rejection is improper for at least this reason.

Applicants also submit that the rationale on pages 2-3 of the Action that the limitations of claim 19 are nonstatutory because no tangible results are obtained by the claimed limitations is in error. To the contrary, Applicants respectfully submit that the claimed limitations do in fact recite useful, concrete and tangible results and the rejection is improper for this additional reason.

Initially, Applicants refer the Examiner to the holdings of _In re State Street,_ 47 USPQ2d 159 (Fed. Cir. 1998) and _In re AT&T,_ 50 USPQ2d 1447 (Fed. Cir. 1999). Such cases of the Federal Circuit make clear that useful, tangible and concrete results are produced by the operation of claim 19 and the claim recites statutory subject matter.

In re Alappat, 33 F.3d 1526, 31 USPQ2d 1545 (Fed. Cir. 1994) stated that

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PAGE 7/17 * RCVD AT 1/4/2007 7:43:58 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/1 * DNIS:2738300 * CSID:5098383424 * DURATION (mm-ss):05-42

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__data transformed by a machine through a series of mathematical calculations__ to produce a smooth waveform display on a monitor __constituted a practical application of an abstract idea (a mathematical algorithm, formula, or calculation)__ because it corresponded to a __useful, concrete or tangible thing__ (i.e., the smooth waveform) (emphasis added).   The *State Street* court stated the mere fact that a claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, in and of itself would not render the claim unstatutory unless of course its operation does not produce a "useful, concrete, and tangible result." *State Street*, 31 USPQ2d at 1602. *Alappat* requires examination of the claims to determine whether the claimed subject matter as a whole is a disembodied mathematical concept representing nothing more than a law of nature or an abstract idea (non-statutory), or if the mathematical concept has been reduced to some practical application rendering it useful (statutory). *In re Alappat*, 31 USPQ2d at 1544.   *State Street* further states that the question of whether a claim encompasses statutory subject matter should focus on the *essential characteristics of the subject matter, in particular, __its practical utility__*. *State Street* held that the transformation of data (e.g., representing discrete dollar amounts by a machine through a series of mathematical calculations into a final share price in the facts of *State Street*) constituted a practical application of a mathematical algorithm, formula or calculation because it produced a "useful, concrete, and tangible" result. In *State Street*, the result was a final share price momentarily fixed for recording and reporting purposes and accepted and relied upon by regulatory authorities and in subsequent trades.

As noted by the Office, claim 19 recites accessing information regarding a status of the one of the storage devices and initiating storage of the delta version using an other of the storage devices after accessing the information regarding the status. As set forth in one example of paragraph 0038 of the specification, data protection operations continue even though a capacity of a storage device is approaching or has reached a limit in the described embodiment. It is clear that this example shows the claims produce a useful, concrete and tangible result as well as the practical utility of the claimed subject matter (e.g., storage of data is provided otherwise not possible in one example). Applicants note that the *State Street* court further stated the *useful, concrete and tangible result __is all that is needed to comply__*

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with section 101 even if the useful result is expressed in numbers. *State Street*, 31 USPQ2d at 1602. Applicants respectfully submit that claim 19 recites statutory subject matter.

Referring to the anticipation rejections, Applicant notes the requirements of MPEP §2131 (8th ed., rev. 5), which states that TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM. The identical invention must be shown in as complete detail in the prior art as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements of the prior art must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Referring to independent claim 1, the Office at page 3 of the Office Action states that block 12 of Bauer stores a baseline version of a data object and blocks 22 a, x, z store delta versions of the data object referring to col. 8, lines 30-39. Applicants respectfully submit the teachings relied upon by the Office are void of teachings regarding a *baseline version* or a *delta version* of a *data object* or storage of the *baseline version and delta version of the data object in physical storage spaces of one and another of the storage devices* as claimed.

The teachings in col. 8, lines 28+ refer to operations of a database synchronizer 17. The teachings refer to dividing a *central database* 12 into replicated tables 12a, 12x, 12z. Tables 22a, 22x, 22z are local *databases*. Applicants have failed to uncover any teachings in col. 8 regarding a data object, baseline and delta versions of a data object, or storage thereof in different storage devices. The reliance upon database teachings of the central database 12 and local databases 22 fails to disclose the specific claim limitations regarding a data object and the Office has failed to establish a proper 102 rejection for at least this reason.

Claim 1 further recites that the processing circuitry is configured control storage operations of at least one of the storage devices. The Office relies upon the teachings of col. 8, lines 24 which merely teach communicating and fail to mention control of storage.

Claim 1 further states that the processing circuitry is configured to process a *restore request with respect to a data object*. The Office fails to identify any teachings which allegedly teach the claimed limitation regarding the restore request. Applicants have failed to uncover any teachings in Bauer of the claimed processing

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of the restore request with respect to a data object.

The Office alleges that col. 1, lines 50-54 teach the claimed processing circuitry is configured to access the delta version of the data object from the other of the storage devices responsive to the restore request. However, the teachings relied upon by the Office refer to synchronization of databases and fail to mention data objects or delta versions of data objects or accessing thereof responsive to a restore request as claimed.

Referring to page 4 of the Action, references 15, 25 relied upon by the Office merely refer to communication links and fail to disclose or suggest the claimed processing circuitry configured to initiate communication of data of the baseline version and the delta version of the data object to a computer system. Furthermore, references 22a, 22x, 22z are relied upon as teaching the claimed storage devices and the Office has failed to identify any teachings of the claimed computer system different than the claimed storage devices.

The Office has failed to identify any teaching that the databases of Bauer teach or suggest the limitations regarding the data object, including the baseline and delta versions of the data object. Applicants respectfully submit that a database may not be fairly interpreted to teach or suggest a "data object" which may be a word processing document or email in illustrative examples of paragraph 0029 of the originally filed specification.

Applicants respectfully submit that positively recited limitations of the claims are not disclosed nor suggested by the prior art for at least the above-mentioned compelling reasons and claim 1 is allowable.

The claims which depend from independent claim 1 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

For example, referring to dependent claim 2, Applicants have failed to uncover any teachings in Bauer of the claimed *combination of the delta and baseline versions to provide a <u>restored version of the data object</u>*. Steps 115, 120, 125 of Fig. 5A refer to determination of an insertion, an update or a deletion of a data field in a row and updating the table of the database and such teachings have not been demonstrated to teach or suggest the limitations of claim 2. Further, Applicants

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have failed to uncover any control of the communication of the restored version of the data object to the computer system which is separate from the server 10 and client PCs 20a, 20x, 20z. Claim 2 is allowable.

Referring to claim 5, Applicants have failed to uncover in block 340 of Fig. 6A the claimed *one of the storage devices is configured to receive the delta version from the computer system in combination with the processing circuitry forwarding the delta version to the other of the storage devices.* Claim 5 is allowable.

Referring to claim 6, the Office identifies the teachings of col. 1, lines 52-54 of Bauer in support of the rejection. Applicants have failed to uncover any reference to "capacity" in such teachings or the claimed *processing circuitry configured to forward the delta version to the other of the storage devices responsive to the status of the capacity of the one of the storage devices* as claimed. Claim 6 is allowable for at least this reason.

Referring to claim 7, Applicants respectfully submit that the reliance by the Office upon the same teachings 12, 22a,x,z to disclose the claimed database and the claimed plurality of storage devices illustrates the improper nature of the rejection. The limitations are not disclosed and the rejection is in error.

Referring to claim 11, the Office on pages 3-4 of the Action recites teachings of Bauer which allegedly disclose limitations of claim 1 in support of the 102 rejection of claim 11. However, claim 11 recites limitations entirely different than limitations of claim 1. Applicants have failed to identify any teachings in Bauer of limitations of claim 1. For example, the limitations of the processing means of one of the storage subsystem means comprising means for controlling the storage of a baseline version of a data object using the respective physical storage means corresponding to the one of the storage subsystem means and for initiating the storage of a delta version of the data object using an other of the storage subsystem means are not disclosed and claim 11 is allowable.

Furthermore, claim 11 recites database means in addition to a plurality of storage subsystem means and the database means is for tracking storage locations of data of the data objects in corresponding ones of the storage subsystem means. The database means further comprises means for storing information regarding the storage location of the delta version using the other of the storage subsystem means. The Office has failed to provide any explanation as to the teachings of

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Bauer considered to disclose the database means separate from the plurality of storage subsystem means.

Applicants respectfully submit that numerous positively recited limitations of claim 11 are not disclosed nor suggested by the prior art and claim 11 is allowable.

The claims which depend from independent claim 11 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to dependent claim 12, Applicants have failed to uncover teachings in data links 15, 25 of the claimed processing means of the storage subsystem comprises means for uncompressing data of the delta version. Claim 12 is allowable.

Referring to independent claim 15, Applicants note that the claimed data management system storage device recites numerous limitations not addressed on pages 3-4 of the Office Action. Furthermore, Applicants have failed to uncover any teachings in Bauer of the claimed processing circuitry configured to *receive a request to store a delta version of the data object at a subsequent moment in time after the initial moment in time*. Applicants have failed to uncover in Bauer any teaching or suggestion of the claimed *processing circuitry configured to obtain information regarding a capacity of the storage device*. Applicants have electronically searched Bauer and have *failed to uncover any teaching regarding capacity*. Applicants have also failed to uncover any teaching or suggestion of the claimed processing circuitry configured to initiate storage of the delta version of the data object using one of the other storage devices responsive to the analysis of the information.

Applicants respectfully submit that numerous positively recited limitations of claim 15 are not disclosed nor suggested by the prior art and claim 15 is allowable.

The claims which depend from independent claim 15 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 19, Appellants have failed to uncover teachings in Bauer of the claimed receiving a request to store a baseline version of a

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data object, receiving a request to store a delta version of the data object, accessing information regarding a status of the one of the storage device, or the initiating storage of the delta version using an other of the storage devices of the data management system after accessing the information regarding the status. The limitations of claim 19 are not disclosed nor suggested by Bauer and the rejection is improper for at least this reason.

Applicants respectfully submit that numerous positively recited limitations of claim 19 are not disclosed nor suggested by the prior art and claim 19 is allowable.

The claims which, depend from independent claim 19 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 23, the method recites storing a baseline version of a data object using one of a plurality of storage devices, receiving a request to store a delta version of the baseline version, analyzing a capacity of the one of the storage devices and storing the delta version using an other of the storage devices responsive to the analyzing. The limitations of claim 23 are not disclosed nor suggested by Bauer and the rejection is improper for at least this reason.

Applicants respectfully submit that numerous positively recited limitations of claim 23 are not disclosed nor suggested by the prior art and claim 23 is allowable.

The claims which depend from independent claim 23 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Applicants have identified herein numerous claimed limitations which are not disclosed nor suggested by the teachings of the prior art identified by the Office. Furthermore, the Office has failed to identify teachings which allegedly disclose limitations of independent claims 11, 15, 19 and 23. In the event that a rejection of the claims is maintained with respect to the prior art, or a new rejection made, Applicants respectfully request identification *in a non-final action* of elements which allegedly correspond to limitations of the claims in accordance with 37 C.F.R §1.104(c)(2). In particular, 37 C.F.R §1.104(c)(2) provides that *the*

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pertinence of each reference, if not apparent, <u>must be clearly explained and each</u> <u>*rejected claim specified*</u>. Further, 37 C.F.R. §1.104(c)(2) states that the Examiner must cite the best references at their command. *When a reference is complex or shows or describes inventions other than that claimed by Applicants, the <u>particular</u> teachings relied upon <u>must be designated as nearly as practicable</u>*. Applicants respectfully request clarification of the rejections with respect to specific references and specific reference teachings therein pursuant to 37 C.F.R. §1.104(c)(2) in a *non-final Action* if any of claims 11, 15, 19 or 23 are not found to be allowable.

Applicants submit an information disclosure statement herewith.

The new claims are supported at least by the teachings of Fig. 3 and the associated teachings of the specification including paragraphs 6, 18 and 56-58.
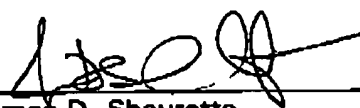
Applicants respectfully request allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Stephen Gold
Harald Burose

By: _____

James D. Shaurette
Reg. No. 39,833
Date: __1/4/07_____

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REMARKS

Applicants hereby add new claims 31-41. Accordingly, claims 1-41 are pending in the present application.

Claim 19 stands rejected under 35 USC 101. Claims 1-30 stand rejected under 35 USC 102(b) for anticipation by U.S. Patent No. 5,870,765 to Bauer et al.

Applicants respectfully request reconsideration of the rejections.

Referring to the 101 rejections, Applicants respectfully submit that claim 19 recites statutory subject matter. Referring to page 2 of the Action, the Office states with reference to paragraph 0063 of the specification that the medium is not limited to tangible embodiments, instead being defined as including tangible embodiments and intangible embodiments. In response, the undersigned drafted and reviewed paragraph 0063 and failed to identify any definition therein of a medium including a data signal. To the contrary, paragraph 0063 clearly recites "[f]or example, processor-usable code may be provided via articles of manufacture, such as an appropriate processor-usable medium, *or alternately embodied within a data signal* (e.g., carrier wave, data packets, etc.). Paragraph 0063 does not recite that the processor-usable medium explicitly defined in claim 19 includes a data signal but rather states that the data signal is an alternative embodiment to an article of manufacture such as a processor-usable medium recited in claim 19. Accordingly, Applicants have failed to uncover any definition of an article of manufacture such as a processor-usable medium of claim 19 including data signals and the rejection is improper for at least this reason.

Applicants also submit that the rationale on pages 2-3 of the Action that the limitations of claim 19 are nonstatutory because no tangible results are obtained by the claimed limitations is in error. To the contrary, Applicants respectfully submit that the claimed limitations do in fact recite useful, concrete and tangible results and the rejection is improper for this additional reason.

Initially, Applicants refer the Examiner to the holdings of *In re State Street*, 47 USPQ2d 159 (Fed. Cir. 1998) and *In re AT&T*, 50 USPQ2d 1447 (Fed. Cir. 1999). Such cases of the Federal Circuit make clear that useful, tangible and concrete results are produced by the operation of claim 19 and the claim recites statutory subject matter.

In re Alappat, 33 F.3d 1526, 31 USPQ2d 1545 (Fed. Cir. 1994) stated that

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data transformed by a machine through a series of mathematical calculations to produce a smooth waveform display on a monitor constituted a practical application of an abstract idea (a mathematical algorithm, formula, or calculation) because it corresponded to a useful, concrete or tangible thing (i.e., the smooth waveform) (emphasis added). The *State Street* court stated the mere fact that a claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, in and of itself would not render the claim unstatutory unless of course its operation does not produce a "useful, concrete, and tangible result." *State Street*, 31 USPQ2d at 1602. *Alappat* requires examination of the claims to determine whether the claimed subject matter as a whole is a disembodied mathematical concept representing nothing more than a law of nature or an abstract idea (non-statutory), or if the mathematical concept has been reduced to some practical application rendering it useful (statutory). *In re Alappat*, 31 USPQ2d at 1544. *State Street* further states that the question of whether a claim encompasses statutory subject matter should focus on the *essential characteristics of the subject matter, in particular, its practical utility*. *State Street* held that the transformation of data (e.g., representing discrete dollar amounts by a machine through a series of mathematical calculations into a final share price in the facts of *State Street*) constituted a practical application of a mathematical algorithm, formula or calculation because it produced a "useful, concrete, and tangible" result. In *State Street*, the result was a final share price momentarily fixed for recording and reporting purposes and accepted and relied upon by regulatory authorities and in subsequent trades.

As noted by the Office, claim 19 recites accessing information regarding a status of the one of the storage devices and initiating storage of the delta version using an other of the storage devices after accessing the information regarding the status. As set forth in one example of paragraph 0038 of the specification, data protection operations continue even though a capacity of a storage device is approaching or has reached a limit in the described embodiment. It is clear that this example shows the claims produce a useful, concrete and tangible result as well as the practical utility of the claimed subject matter (e.g., storage of data is provided otherwise not possible in one example). Applicants note that the *State Street* court further stated the *useful, concrete and tangible result is all that is needed to comply*

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with section 101 even if the useful result is expressed in numbers. *State Street*, 31 USPQ2d at 1602. Applicants respectfully submit that claim 19 recites statutory subject matter.

Referring to the anticipation rejections, Applicant notes the requirements of MPEP §2131 (8th ed., rev. 5), which states that TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM. The identical invention must be shown in as complete detail in the prior art as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements of the prior art must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Referring to independent claim 1, the Office at page 3 of the Office Action states that block 12 of Bauer stores a baseline version of a data object and blocks 22 a, x, z store delta versions of the data object referring to col. 8, lines 30-39. Applicants respectfully submit the teachings relied upon by the Office are void of teachings regarding a *baseline version* or a *delta version* of a *data object* or storage of the *baseline version and delta version of the data object in physical storage spaces of one and another of the storage devices* as claimed.

The teachings in col. 8, lines 28+ refer to operations of a database synchronizer 17. The teachings refer to dividing a *central database* 12 into replicated tables 12a, 12x, 12z. Tables 22a, 22x, 22z are local *databases*. Applicants have failed to uncover any teachings in col. 8 regarding a data object, baseline and delta versions of a data object, or storage thereof in different storage devices. The reliance upon database teachings of the central database 12 and local databases 22 fails to disclose the specific claim limitations regarding a data object and the Office has failed to establish a proper 102 rejection for at least this reason.

Claim 1 further recites that the processing circuitry is configured control storage operations of at least one of the storage devices. The Office relies upon the teachings of col. 8, lines 24 which merely teach communicating and fail to mention control of storage.

Claim 1 further states that the processing circuitry is configured to process a *restore request with respect to a data object*. The Office fails to identify any teachings which allegedly teach the claimed limitation regarding the restore request. Applicants have failed to uncover any teachings in Bauer of the claimed processing

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of the restore request with respect to a data object.

The Office alleges that col. 1, lines 50-54 teach the claimed processing circuitry is configured to access the delta version of the data object from the other of the storage devices responsive to the restore request. However, the teachings relied upon by the Office refer to synchronization of databases and fail to mention data objects or delta versions of data objects or accessing thereof responsive to a restore request as claimed.

Referring to page 4 of the Action, references 15, 25 relied upon by the Office merely refer to communication links and fail to disclose or suggest the claimed processing circuitry configured to initiate communication of data of the baseline version and the delta version of the data object to a computer system. Furthermore, references 22a, 22x, 22z are relied upon as teaching the claimed storage devices and the Office has failed to identify any teachings of the claimed computer system different than the claimed storage devices.

The Office has failed to identify any teaching that the databases of Bauer teach or suggest the limitations regarding the data object, including the baseline and delta versions of the data object. Applicants respectfully submit that a database may not be fairly interpreted to teach or suggest a "data object" which may be a word processing document or email in illustrative examples of paragraph 0029 of the originally filed specification.

Applicants respectfully submit that positively recited limitations of the claims are not disclosed nor suggested by the prior art for at least the above-mentioned compelling reasons and claim 1 is allowable.

The claims which depend from independent claim 1 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

For example, referring to dependent claim 2, Applicants have failed to uncover any teachings in Bauer of the claimed *combination of the delta and baseline versions to provide a restored version of the data object*. Steps 115, 120, 125 of Fig. 5A refer to determination of an insertion, an update or a deletion of a data field in a row and updating the table of the database and such teachings have not been demonstrated to teach or suggest the limitations of claim 2. Further, Applicants

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have failed to uncover any control of the communication of the restored version of the data object to the computer system which is separate from the server 10 and client PCs 20a, 20x, 20z. Claim 2 is allowable.

Referring to claim 5, Applicants have failed to uncover in block 340 of Fig. 6A the claimed *one of the storage devices is configured to receive the delta version from the computer system in combination with the processing circuitry forwarding the delta version to the other of the storage devices.* Claim 5 is allowable.

Referring to claim 6, the Office identifies the teachings of col. 1, lines 52-54 of Bauer in support of the rejection. Applicants have failed to uncover any reference to "capacity" in such teachings or the claimed *processing circuitry configured to forward the delta version to the other of the storage devices responsive to the status of the capacity of the one of the storage devices* as claimed. Claim 6 is allowable for at least this reason.

Referring to claim 7, Applicants respectfully submit that the reliance by the Office upon the same teachings 12, 22a,x,z to disclose the claimed database and the claimed plurality of storage devices illustrates the improper nature of the rejection. The limitations are not disclosed and the rejection is in error.

Referring to claim 11, the Office on pages 3-4 of the Action recites teachings of Bauer which allegedly disclose limitations of claim 1 in support of the 102 rejection of claim 11. However, claim 11 recites limitations entirely different than limitations of claim 1. Applicants have failed to identify any teachings in Bauer of limitations of claim 1. For example, the limitations of the processing means of one of the storage subsystem means comprising means for controlling the storage of a baseline version of a data object using the respective physical storage means corresponding to the one of the storage subsystem means and for initiating the storage of a delta version of the data object using an other of the storage subsystem means are not disclosed and claim 11 is allowable.

Furthermore, claim 11 recites database means in addition to a plurality of storage subsystem means and the database means is for tracking storage locations of data of the data objects in corresponding ones of the storage subsystem means. The database means further comprises means for storing information regarding the storage location of the delta version using the other of the storage subsystem means. The Office has failed to provide any explanation as to the teachings of

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Bauer considered to disclose the database means separate from the plurality of storage subsystem means.

Applicants respectfully submit that numerous positively recited limitations of claim 11 are not disclosed nor suggested by the prior art and claim 11 is allowable.

The claims which depend from independent claim 11 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to dependent claim 12, Applicants have failed to uncover teachings in data links 15, 25 of the claimed processing means of the storage subsystem comprises means for uncompressing data of the delta version. Claim 12 is allowable.

Referring to independent claim 15, Applicants note that the claimed data management system storage device recites numerous limitations not addressed on pages 3-4 of the Office Action. Furthermore, Applicants have failed to uncover any teachings in Bauer of the claimed processing circuitry configured to *receive a request to store a delta version of the data object at a subsequent moment in time after the initial moment in time.* Applicants have failed to uncover in Bauer any teaching or suggestion of the claimed *processing circuitry configured to obtain information regarding a capacity of the storage device.* Applicants have *electronically searched Bauer and have failed to uncover any teaching regarding capacity.* Applicants have also failed to uncover any teaching or suggestion of the claimed processing circuitry configured to initiate storage of the delta version of the data object using one of the other storage devices responsive to the analysis of the information.

Applicants respectfully submit that numerous positively recited limitations of claim 15 are not disclosed nor suggested by the prior art and claim 15 is allowable.

The claims which depend from independent claim 15 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 19, Appellants have failed to uncover teachings in Bauer of the claimed receiving a request to store a baseline version of a

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data object, receiving a request to store a delta version of the data object, accessing information regarding a status of the one of the storage device, or the initiating storage of the delta version using an other of the storage devices of the data management system after accessing the information regarding the status. The limitations of claim 19 are not disclosed nor suggested by Bauer and the rejection is improper for at least this reason.

Applicants respectfully submit that numerous positively recited limitations of claim 19 are not disclosed nor suggested by the prior art and claim 19 is allowable.

The claims which, depend from independent claim 19 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 23, the method recites storing a baseline version of a data object using one of a plurality of storage devices, receiving a request to store a delta version of the baseline version, analyzing a capacity of the one of the storage devices and storing the delta version using an other of the storage devices responsive to the analyzing. The limitations of claim 23 are not disclosed nor suggested by Bauer and the rejection is improper for at least this reason.

Applicants respectfully submit that numerous positively recited limitations of claim 23 are not disclosed nor suggested by the prior art and claim 23 is allowable.

The claims which depend from independent claim 23 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Applicants have identified herein numerous claimed limitations which are not disclosed nor suggested by the teachings of the prior art identified by the Office. Furthermore, the Office has failed to identify teachings which allegedly disclose limitations of independent claims 11, 15, 19 and 23. In the event that a rejection of the claims is maintained with respect to the prior art, or a new rejection made, Applicants respectfully request identification *in a non-final action* of elements which allegedly correspond to limitations of the claims in accordance with 37 C.F.R §1.104(c)(2). In particular, 37 C.F.R §1.104(c)(2) provides that *the*

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pertinence of each reference, if not apparent, *must be clearly explained and each rejected claim specified.* Further, 37 C.F.R. §1.104(c)(2) states that the Examiner must cite the best references at their command. *When a reference is complex or shows or describes inventions other than that claimed by Applicants, the particular teachings relied upon must be designated as nearly as practicable.* Applicants respectfully request clarification of the rejections with respect to specific references and specific reference teachings therein pursuant to 37 C.F.R. §1.104(c)(2) in a *non-final* Action if any of claims 11, 15, 19 or 23 are not found to be allowable.

Applicants submit an information disclosure statement herewith.

The new claims are supported at least by the teachings of Fig. 3 and the associated teachings of the specification including paragraphs 6, 18 and 56-58.
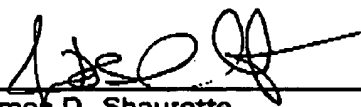
Applicants respectfully request allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Stephen Gold
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